

July 16, 2008

**OFFICE OF THE HEARING EXAMINER
KING COUNTY, WASHINGTON**

400 Yesler Way, Room 404
Seattle, Washington 98104
Telephone (206) 296-4660
Facsimile (206) 296-1654
Email: hearex@metrokc.gov

REPORT AND DECISION

SUBJECT: Department of Development and Environmental Services File No. **E0500483**

FRED, SR. & CAROL SUE WHITE
Code Enforcement Appeal

Location: 26508 – 314th Avenue Southeast

Appellant: **Fred, Sr. & Carol Sue White**
P.O. Box 272
Ravensdale, Washington 98051
Telephone: (425) 432-5651

King County: Department of Development and Environmental Services
represented by **Holly Sawin**
900 Oakesdale Avenue Southwest
Renton, Washington 98055
Telephone: (206) 296-6772
Facsimile: (206) 296-6604

SUMMARY OF RECOMMENDATIONS/DECISION:

Department's Preliminary Recommendation:	Deny appeal
Department's Final Recommendation:	Deny appeal
Examiner's Decision:	Deny appeal

EXAMINER PROCEEDINGS:

Hearing opened:	July 15, 2008
Hearing closed:	July 15, 2008

Participants at the public hearing and the exhibits offered and entered are listed in the attached minutes.
A verbatim recording of the hearing is available in the office of the King County Hearing Examiner.

FINDINGS, CONCLUSIONS & DECISION: Having reviewed the record in this matter, the Examiner now makes and enters the following:

FINDINGS OF FACT:

1. On June 15, 2007 the King County Department of Development and Environmental Services Code Enforcement Section issued a Notice and Order to Fred and Carol Sue White concerning property located at 26508 – 314th Avenue Southeast in the RA-5 zone. The Whites' property was cited for placement of a mobile home with an addition and deck without required permits and approvals. Mr. White filed a timely appeal of the Notice and Order asserting that the mobile home was on the site when he purchased the property in 1995.
2. The mobile home on the White property was manufactured in the mid-1970s. DDES has no record of any building or site placement permit being issued for the mobile home and according to Mr. White the State Department of Labor and Industries has no record of the mobile home ever being licensed in the State of Washington. Absent this licensing it is problematic whether any kind of building permit can be legally issued for this structure.
3. Mr. White is in the process of planning to replace the mobile home with a three-bedroom house. In pursuit of this new construction, Mr. White obtained Health Department approval for a new septic system on February 8, 2008. He is seeking but has not yet obtained a mortgage loan to construct the new residence.

CONCLUSIONS:

1. KCC 23.02.130B provides an exemption from the code compliance penalty provisions for a property owner who "affirmatively demonstrates that the action which resulted in the violation was taken without the owner's knowledge or consent by someone other than the owner, or someone acting on the owner's behalf" and that such owner "shall be responsible only for bringing the property into compliance to the extent reasonably feasible under the circumstances." The mobile home subject to the Notice and Order already existed on the property in 1995 when the Whites made their purchase, but the addition is a new structure. The evidence of record supports upholding the Notice and Order and denying the appeal, but applicable code provisions limit the imposition of penalties.
2. Mr. White should be given a reasonable opportunity to resolve the issues surrounding the lack of a permit for the mobile home by obtaining financing for construction of a new residence. Hearing Examiner jurisdiction will be retained in this proceeding to modify the deadline stated below based on a good cause showing that Mr. White is attempting to obtain construction financing for his new residence but that the necessary financing decision has yet to be made.

DECISION:

The appeal is DENIED.

ORDER:

1. No penalties shall be assessed against the Appellants or their property if the mobile home and the addition are removed from the site within six months from the date of this order.
2. Hearing Examiner jurisdiction is retained in this proceeding to modify the deadline stated above in condition no. 1. The deadline may be extended upon the Appellants' request based on their

submitting to the Hearing Examiner and DDES a statement from a bank or mortgage broker on business letterhead reciting that their application for a construction loan for the new house has been submitted and its approval is still pending.

3. If a request is received from the Appellants to extend the six month compliance deadline, DDES may request that the Appellants be required either to remove the newer mobile home addition or to obtain a separate building permit for such structure.

ORDERED this 16th day of July, 2008.

Stafford L. Smith
King County Hearing Examiner *pro tem*

NOTICE OF RIGHT TO APPEAL

Pursuant to Chapter 20.24, King County Code, the King County Council has directed that the Examiner make the final decision on behalf of the County regarding code enforcement appeals. The Examiner's decision shall be final and conclusive unless proceedings for review of the decision are properly commenced in Superior Court within twenty-one (21) days of issuance of the Examiner's decision. (The Land Use Petition Act defines the date on which a land use decision is issued by the Hearing Examiner as three days after a written decision is mailed.)

MINUTES OF THE JULY 15, 2008, PUBLIC HEARING ON DEPARTMENT OF DEVELOPMENT AND ENVIRONMENTAL SERVICES FILE NO. E0500483.

Stafford L. Smith was the Hearing Examiner in this matter. Participating in the hearing were Holly Sawin, representing the Department and Fred White, the Appellant.

The following Exhibits were offered and entered into the record:

Exhibit No. 1	DDES staff report to the Hearing Examiner for July 15, 2008
Exhibit No. 2	Copy of the Notice & Order issued June 15, 2007
Exhibit No. 3	Copy of the Notice and Statement of Appeal received June 21, 2007
Exhibit No. 4	Copies of codes cited in the Notice & Order
Exhibit No. 5	King County Health Department approval dated February 8, 2008 for a new drainfield system on the subject property
Exhibit No. 6	2007 aerial photograph of subject property depicting mobile home and garage
Exhibit No. 7	Real Estate Excise Tax Affidavit for subject property dated December 29, 2005

SLS:gao
E0500483 RPT